

Senate Bill No. 1737

Passed the Senate August 30, 2006

Secretary of the Senate

Passed the Assembly August 24, 2006

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Chapter 23.5 (commencing with Section 22730) to Division 8 of the Business and Professions Code, relating to consumer rebates.

LEGISLATIVE COUNSEL'S DIGEST

SB 1737, Figueroa. Consumer rebates.

Existing law regulates various business activities and practices.

This bill would impose certain requirements on companies and retailers that offer consumer rebates, including that a company allow a minimum of 30 days for a consumer to submit a rebate request. The bill would require a company to mail the rebate check, transmit the rebate funds, or fulfill the terms of the rebate within a specified time period. The bill would specify the information that may be required from a consumer by a company that offers a rebate. The bill would exempt from its provisions rebates offered by a gas or electric corporation or a local publicly owned electric utility through its energy program as well as consumer rebates for less than \$10. The bill's provisions would become operative on July 1, 2007.

The people of the State of California do enact as follows:

SECTION 1. Chapter 23.5 (commencing with Section 22730) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 23.5. CONSUMER REBATES

22730. As used in this chapter, "consumer rebate" means an offer to provide cash, credit, or credit towards future purchases, that is offered to consumers who acquire or purchase a specified product or service and that is conditioned upon the consumer submitting a request for redemption after satisfying the terms and conditions of the offer. The term shall not include any discount from the purchase price that is taken at the time of purchase, any discount, cash, credit, or credit towards a future purchase that is

automatically provided to a consumer without the need to submit a request for redemption, or any refund that may be given to a consumer in accordance with a company's return, guarantee, adjustment, or warranty policies, or any company's frequent shopper customer reward program.

22731. As used in this chapter, "company" means the company or entity that is funding the consumer rebate.

22732. (a) A company shall not require a consumer to provide more than the following as proof of purchase for purposes of redeeming a consumer rebate:

- (1) A receipt for the purchase of the product or services.
 - (2) A unique identifier of purchase such as a product serial number, universal product code, packing slip, or packaging element.
 - (3) The consumer's name.
 - (4) The consumer's address.
 - (5) The consumer's telephone number.
 - (6) The consumer's membership number, if applicable.
 - (7) The consumer's signature.
 - (8) If the eligibility for the consumer rebate is triggered by an electronic transaction, a valid proof of the electronic transaction.
- (b) For purposes of paragraph (1) of subdivision (a), a copy of the receipt shall be sufficient unless the consumer is provided with a duplicate original receipt for each product associated with a rebate, in which case the duplicate original may be required.
- (c) If the consumer rebate offer is contingent upon ownership or purchase of another product or service, a company may, in addition to the information permitted to be requested under subdivision (a), request reasonable proof of ownership or purchase of the other product or service.
- (d) Notwithstanding subdivision (a), a company has the right to reject a consumer rebate claim or to request reasonable additional documentation to verify a claim if it has reason to believe that the individual consumer submitting the rebate request is attempting to commit fraud, has already received the offered rebate, or that the proof of purchase is not from a legitimate company product or service.

22733. (a) Except as provided in subdivision (b), a consumer rebate offer shall conspicuously disclose a telephone number on

the rebate form that a consumer may call to check the status of his or her rebate request.

(b) For purchases of a company's product that occur over a Web site operated or maintained by that company, a Web site or other electronic means may be provided instead of the telephone number to check the status of his or her rebate request.

22734. A company that offers a consumer rebate shall allow a minimum of 30 days from the date the consumer purchases the product, or becomes eligible for the rebate pursuant to subdivision (b) of Section 22735, for the consumer to submit the rebate request.

22735. (a) A company shall mail the rebate check or transmit the rebate funds to the consumer or fulfill the terms of the rebate offer no later than 60 days from either of the following events as applicable:

(1) Upon receipt of a consumer rebate request meeting the terms and conditions of the rebate offer, to the extent permitted by this chapter and as disclosed at the time of purchase.

(2) If the consumer rebate offer is conditioned upon a consumer staying with a service for a minimum length of time, then upon completion of this term of the rebate offer and receipt of a rebate request meeting the terms and conditions for the rebate to the extent permitted by this chapter and as disclosed at the time of purchase.

(b) If a company is unable to mail the rebate check to the consumer within the time required in subdivision (a), the company shall provide notice to the consumer.

22736. (a) A company offering a consumer rebate shall not require personal information other than the consumer's name, address, telephone number, membership number, if applicable, and signature.

(b) A company may require, instead of a telephone number, a consumer's e-mail address with respect to products purchased over the Internet, Internet-based services, or Internet rebate redemptions.

22737. (a) A company offering a consumer rebate shall provide the rebate redemption form directly with the product, or at the same location and at the same time that the consumer purchases the product.

(b) A company that does not provide rebate forms directly with its product may comply with this section by doing one of the following:

(1) Supplying the retailer with a sufficient quantity of rebate redemption forms based on reasonably anticipated sales.

(2) Supplying the retailer with the means to create a rebate redemption form at the time and place of sale.

(3) Providing consumers with an Internet Web site address where a form may be downloaded. However, at the consumer's request, a hard copy of the form shall still be available at the same location and at the same time that the consumer purchases the product.

(c) For purposes of Internet sales, a generally accessible company Web page, including a rebate form thereon, shall comply with this section. For purposes of telephone sales, directing consumers to a generally accessible company Web page, including the rebate form, and, upon request, sending the rebate form via the consumer's choice of regular or electronic mail or telecopy shall comply with this section.

(d) A company that complies with this chapter shall not be held liable if a retailer extending the rebate on the company's behalf does not provide the consumer with the rebate form.

22738. The provisions of this chapter do not apply to the following:

(a) Rebates and rebate programs that are offered by gas or electric corporations through their energy programs under the jurisdiction of the Public Utilities Commission.

(b) Rebates and rebate programs that are offered by local publicly owned electric utilities, as defined in Section 9604 of the Public Utilities Code, through their energy programs funded pursuant to Section 385 of the Public Utilities Code.

(c) A consumer rebate for less than ten dollars (\$10).

22739. This chapter shall become operative on July 1, 2007. Nothing in this chapter shall impose on any manufacturer any obligation to recall any product or service offering consumer rebates made available to retail sales outlets or consumers prior to the operative date of this chapter. Any rebate offer in effect prior to the operative date of this chapter shall be deemed to be in compliance with this chapter.

Approved _____, 2006

Governor